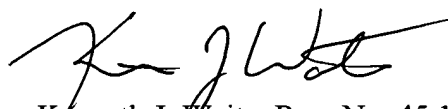


specifying the manner in which the components were used. New claim 16 does not use these phrases, and this rejection should not be an issue with these new claims.

Further, the Examiner rejected claims based upon the phrases "low concentration of a first selection marker," "increased selection pressure" and "gene copy." These phrases are also not found in new claim 16. Again, these rejections should not be an issue with these new claims.

The Examiner also rejected claim 6 as being directed to non-statutory subject matter in that it purportedly covered a product of nature. Applicants respectfully assert that this rejection should be withdrawn. To the best knowledge of the Applicants, the DNA sequence listed as SEQ ID NO: 5 has never been shown to be found in nature. It is a codon-optimized sequence that is different from the wild-type sequence. Thus, this sequence constitutes a man-made composition of matter, and should not be rejected under 35 USC §101.

Respectfully submitted,



Kenneth J. Waite, Reg. No. 45,189
Roche Diagnostics Corporation
9115 Hague Road, Bldg. D
P.O. Box 50457
Indianapolis, IN 46250-0457
Telephone No.: (317) 521-3104
Facsimile No.: (317) 521-2883

Date: June 23, 2003